

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ALEXANDER NELSON,

Case No. 23-cv-525 (LMP/JFD)

Plaintiff,

v.

AMERICAN MODERN INSURANCE
GROUP, INC.,

**ORDER DENYING AS MOOT
PLAINTIFF’S MOTION TO
PROCEED *IN FORMA PAUPERIS*
ON APPEAL**

Defendant.

On March 26, 2025, this Court granted Defendant American Modern Insurance Group, Inc.’s (“American Modern”) motion for summary judgment against Plaintiff Alexander Nelson (“Nelson”) and dismissed the case with prejudice. ECF No. 259. Nelson filed a notice of appeal (ECF No. 261) and now an application to proceed *in forma pauperis* (“IFP”) on appeal (ECF No. 265).

Nelson was previously granted IFP status in the district court. ECF No. 109. A party that was permitted to proceed IFP in the district court action “may proceed on appeal [IFP] without further authorization, unless . . . the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith.” Fed. R. App. P. 24(a)(3). “To determine whether an appeal is taken in good faith, the Court must determine whether the claims to be decided on appeal are factually or legally frivolous.” *Smith v. Eischen*, No. 23-cv-357 (JRT/DJF), 2024 WL 2818335, at *1 (D. Minn. June 3, 2024) (citing *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). An appeal is frivolous, and therefore

cannot be taken in good faith, “where it lacks an arguable basis either in law or in fact.” *Neitzke*, 490 U.S. at 325.

To the extent Nelson appeals the dismissal of his claims under the Americans with Disabilities Act and the Rehabilitation Act, such an appeal would be frivolous. As the Court explained in its summary-judgment order, Nelson failed to plead or provide evidence for indispensable elements of those claims. ECF No. 259 at 4–5. There is no “arguable basis either in law or in fact” to appeal dismissal of those claims. *Neitzke*, 490 U.S. at 325.

As for the Minnesota Human Rights Act claim, although the Court remains fully satisfied that the claim was properly dismissed on summary judgment, and Nelson’s appeal of that claim borders on frivolity, the claim does not appear to be completely “frivolous,” as that term has been defined by the Supreme Court. The Court therefore declines to certify that Nelson’s appeal as to this claim is not in good faith. Accordingly, the Court will not strip Nelson of his IFP status on appeal.

Accordingly, based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Nelson’s Application to Proceed IFP on Appeal (ECF No. 265) is **DENIED AS MOOT**. To be clear, this ruling does not prevent Nelson from proceeding with his appeal IFP, because Fed. R. App. P. 24(a)(3) permits him to do so without further authorization of the Court.

Dated: April 10, 2025

s/Laura M. Provinzino
Laura M. Provinzino
United States District Judge